

CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL ZONING ORDINANCE
CHAPTER 34: ZONING VIOLATIONS

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34.00 Zoning Violations.¹

Definitions.

- A. Definitions. Terms used in this Ordinance are defined in *Chapter 3: Definitions*.

34.01 Civil Violations: Exceptions.

- A. Any person, firm or corporation who uses property in violation of the Zoning Ordinance, or who knowingly permits another person, firm or corporation to do so, shall upon citation by the designated enforcement entity be deemed to have committed a civil zoning violation and shall pay to the City of Carmel a civil monetary fine in the amount prescribed by *Section 34.02*.
- B. Each separate day of violation that remains uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed by *Section 34.02*.

34.02 Schedule of Civil Monetary Fines.²

- A. The civil monetary fine for each civil zoning violation of the Zoning Ordinance shall be one hundred dollars (\$100.00), except as provided by in *Subsection (b)* below.
- B. For a repeated civil zoning violation by the same violator, the following fines shall apply:
 - 1. Second Violation \$200.00
 - 2. Third Violation \$300.00
 - 3. Fourth Violation \$400.00
 - 4. Each violation in excess of four (4) \$500.00

34.03 Citation for Civil Zoning Violations.³

- A. The Director or his duly authorized designee(s), upon verification of a civil zoning violation, may issue a civil violation to any responsible party(ies) who commit(s) a civil zoning violation. The citation may be served by personal service or by certified mail or by placement in a conspicuous

¹ *Section 34.00 amended per Ordinance No. Z-416-03, §1-m.*

² *Section 34.02 amended per Ordinance No. Z-365-01.*

place on the property where the civil zoning violation occurs. If personal service of a civil zoning violation is made by a zoning official, said official will:

1. Wear on his person in a conspicuous manner, identification from the City of Carmel; and
2. Wear on his person in a conspicuous manner, identification of his employment with the Department.

The citation shall serve as notice to the responsible party(ies) that he has committed a civil zoning violation.

B. Where a Zoning Violation exists, the Director, or his duly authorized designee, may issue a Citation against the property owner for the violation without first issuing a Notice of Violation. In his sole discretion, the Director, or his duly authorized designee, may issue a Notice of Violation and allow a period of time for the property owner to correct the violation and to comply with the appropriate Section of the Zoning Ordinance. At the expiration of the period of time granted in the Notice of Violation for compliance, the Director, or his designee, may issue a citation for the zoning violation in his discretion.

C. The Notice of Violation shall include:

1. Date of issuance;
2. The name and address of the persons(s) charged;
3. Section number of the Zoning Ordinance that has been violated;
4. Nature of the Civil Violation;
5. The place and time that the Civil Violation occurred;
6. Range of fines which could be assessed upon continued noncompliance activity;
7. Specific time allowed to bring the Civil Violation into compliance;
8. Name, business address and telephone number of Zoning Official issuing the citation; and
9. Date and time of notice given and number of days given on notice;

D. The citation shall be on a form adopted by the Department and shall include:

1. Date of issuance;
2. The name and address of the person(s) charged;
3. Section number of the Zoning Ordinance that has been violated;
4. Nature of the Civil Violation;
5. The place and time that the Civil Violation occurred;
6. Amount of the civil fine assessed;
7. The date, time, and location of the Court in which the civil violation will adjudicate; and
8. Name, business address and telephone number of Zoning Official issuing the citation; and
9. Date and time of notice given and number of days given and number of days given on notice.

³ Section 34.03 amended per Ordinance No. Z-416-03, §n; Z-470-05, §t.

34.04 Trial for Civil Zoning Violation.⁴

- A. Upon issuance of the citation, the Zoning Official shall forward a copy of the citation to the designated enforcement entity and the City Court of the City of Carmel, Indiana, shall schedule the case for trial.

The City Attorney, his designee, or the Department is responsible for the enforcement of this Ordinance.

All procedures will be in compliance with the Indiana Rules for Civil Procedure, and will adopt Court cost recovery for infractions according to the State of Indiana.
- B. In proceedings before the Court for a Civil Zoning Violation:
 - 1. The designated enforcement entity has the burden of proving the Civil Zoning Violation and the violator committed the infraction, by a preponderance of the evidence presented at trial;
 - 2. The violator may question all witnesses who appear for the designated enforcement entity and produce evidence or witnesses on the violator's behalf;
- C. A person found guilty of a civil zoning violation is liable for the fine, Court costs and fees. No costs may be assessed against the designated enforcement entity in any such action.
- D. Seeking a civil penalty as authorized in this Section, does not practice the designated enforcement entity from seeking alternative relief from the Court in the same action, or from seeking injunctive relief available under the law of the State of Indiana, or any other remedy in a separate action for the enforcement of the Zoning Ordinance;
- E. When a violator has been guilty of a Civil Zoning Violation, the Court may impose additional civil penalties and grant appropriate relief to abate or halt the violation, and the Court may direct that payment of the civil monetary fine or additional civil penalties be suspended or deferred under conditions established by the Court. If a violator fails to pay the civil penalty or violates the terms of any other order imposed by the Court, the failure is contempt; and
- F. A change of venue from Carmel, Indiana, shall not be granted in such a case.

⁴ Section 34.04 amended per Ordinance No. Z-365-01.

**CHAPTER 34: ZONING VIOLATIONS
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-365-01	76-01a OA	November 5, 2001	November 27, 2001	34.2(A); 34.2(B)(1); 34.2(B)(2); 34.2(B)(3); 34.4(A)
Z-416-03	40-02 OA	November 17, 2003	November 18, 2003	34.00; 34.03 Autumn 2003 v1
Z-470-05	04100026 OA	February 21, 2005	February 21, 2005	34.03(B) Winter 2005 v2